

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JOSE MERCED, PRESIDENT,
TEMPLO YORUBA OMO
ORISHA TEXAS INC.
Plaintiff

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Civil Action No. 4-O6CV-891—A

V.

THE CITY OF EULESS
Defendant

PLAINTIFF'S AMENDED LIST OF FACTS TO BE PROVEN AT TRIAL

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiff files his *Plaintiff's List of Facts To Be Proven At Trial*, pursuant to this Court's Order of 4 February 2008. The facts he must prove under each of his legal theories to make a prima facie case of entitlement to the relief requested are as follows:

I. To prevail on his claim for injunctive relief under 42 USC §1983 and the First Amendment of the United States Constitution, Plaintiff will prove the following:

The Plaintiff is a priest of the Templo Yoruba Omo Orisha Texas Inc. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and Exhibit 2.

The Templo Yoruba Omo Orisha Texas Inc. is a religious institution protected by the First Amendment to the United States Constitution. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, testimony of Michael Mason, and Exhibit 2.

The religion practiced by the Plaintiff is the religion known as "Santeria." Evidence will be testimony of Plaintiff, testimony of Ventura Santana, testimony of Michael Mason.

The practice of the Santeria religion requires the observance of animal sacrifice, including the sacrifice of goats, sheep, and turtles. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Michael Mason.

The sacrifice of goats, sheep, and turtles is necessary to the observance of certain essential Santeria rituals. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Michael Mason.

The sacrifice of goats, sheep, and turtles is necessary to the continued existence of the Santeria religion. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Michael Mason.

The Defendant has enacted ordinances in the City Code that prohibit the killing of mammals and reptiles by homeowners in the City of Euless. Evidence will be the Deposition testimony of Gary McKamie and Exhibit 6 and Exhibit 1.

The Defendant enforces or will enforce against the Plaintiff laws that prohibit the killing of mammals and reptiles by homeowners in the City of Euless. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Gary McKamie, and Exhibit 1, Exhibit 5, and Exhibit 6.

The Defendant, or its agents or employees, have told the Plaintiff that he may not sacrifice goats, sheep, and turtles (mammals and reptiles) in his home. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Gary McKamie, and Exhibit 1, Exhibit 5, and Exhibit 6.

The Plaintiff has practiced and intends to practice inside his home the essential rituals of his religion, including the sacrifice of goats, sheep, and turtles. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, testimony of Michael Mason.

The Defendant's enforcement against the Plaintiff of laws that prohibit the killing of mammals and reptiles by homeowners in the City of Euless prevents his sacrifice of goats, sheep, and turtles in his home. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Gary McKamie, and Exhibit 1, Exhibit 5, and Exhibit 6.

By enforcing against the Plaintiff laws that prohibit sacrificing goats, sheep, and turtles in his home, the Defendant has forbidden the Plaintiff's free exercise of his religion. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Gary McKamie, testimony of Michael Mason, and Exhibit 1, Exhibit 5, and Exhibit 6.

II. To prevail on his claim for injunctive relief under 42 USC §1983, the First Amendment of the United States Constitution, and the Equal Protection Clause, Section 1, Fourteenth Amendment to the United States Constitution, Plaintiff will prove the following:

Everything required to prove §1983 claim under the First Amendment alone (Paragraph I, above).

The Defendant does not enforce against other homeowners the same laws it enforces or will enforce against the Plaintiff when they kill mammals and reptiles for secular purposes. Evidence will be testimony of Sam Sanchez, testimony of Gary McKamie, Exhibit 1, Exhibit 5, Exhibit 6, and Exhibit 7.

or

The Defendant excepts from enforcement against homeowners the prohibition on killing mammals and reptiles for secular purposes that it refuses to except from enforcement against the Plaintiff. Evidence will be testimony of Sam Sanchez, testimony of Gary McKamie, Exhibit 1, Exhibit 5, Exhibit 6, and Exhibit 7.

or

The Defendant refuses or has refused to except from enforcement against the Plaintiff's conduct for religious purposes that is no more prohibited by the language of the law than the conduct of other homeowners for secular purposes which is no less prohibited by the language of the law. Evidence will be testimony of Sam Sanchez, testimony of Gary McKamie, Exhibit 1, Exhibit 5, Exhibit 6, and Exhibit 7.

III. To prevail on his claim for injunctive relief under the Texas Religious Freedom Restoration Act, Texas Civil Practices and Remedies Code, §110, Plaintiff will prove the following:

The Plaintiff is a priest of the Templo Yoruba Omo Orisha Texas Inc. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and Exhibit 2.

The Templo Yoruba Omo Orisha Texas Inc. is a religious institution. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and Exhibit 2.

The religion practiced by the Plaintiff is the religion known as "Santeria." Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Michael Mason.

The practice of the Santeria religion requires the observance of animal sacrifice, including the sacrifice of goats, sheep, and turtles. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Michael Mason.

The sacrifice of goats, sheep, and turtles is necessary to the observance of certain essential Santeria rituals. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Michael Mason.

The sacrifice of goats, sheep, and turtles is necessary to the continued existence of the Santeria religion. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Michael Mason.

The Defendant has enacted ordinances in the City Code that prohibit the killing of mammals and reptiles by homeowners in the City of Euless. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Gary McKamie, and Exhibit 1 and Exhibit 6.

The Defendant enforces or will enforce against the Plaintiff laws that prohibit the killing of mammals and reptiles by homeowners in the City of Euless. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Gary McKamie, and Exhibit 1, Exhibit 5, and Exhibit 6.

The Plaintiff has practiced and intends to practice inside his home the essential rituals of his religion, including the sacrifice of goats, sheep, and turtles. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, testimony of Michael Mason

The Defendant's enforcement against the Plaintiff of laws that prohibit the killing of mammals and reptiles by homeowners in the City of Euless prevents his sacrifice of goats, sheep, and turtles in his home. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, and testimony of Gary McKamie, and Exhibit 1, Exhibit 5, and Exhibit 6.

By enforcing against the Plaintiff laws that prohibit sacrificing goats, sheep, and turtles in his home, the Defendant has forbidden the Plaintiff's free exercise of his religion. Evidence will be testimony of Plaintiff, testimony of Ventura Santana, testimony of Michael Mason, and testimony of Gary McKamie, and Exhibit 1, Exhibit 5, and Exhibit 6.

Respectfully submitted,



JOHN WHEAT GIBSON, P.C.

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that a true copy of the above *Plaintiff's Amended List of Facts to Be Proven at Trial* was served on William M. McKamie, counsel for Defendant, by fax to (210)546-2130 on 12 February 2008 and by first class mail to 13750 San Pedro, Suite 640, San Antonio, TX 78232 on 14 February 2008.

